HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HONOURABLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1182 OF 2006

–
–

Between:

M/s.Midram Publication Pvt. Ltd.,
represented by its Director, T.Venkatram
Reddy and another.

…Appellants

And

Collector and District Magistrate,
Ranga Reddy District,
Hyderabad and otherrs.

…Respondents.

:: **J U D G M E N T** ::

Counsel for the Appellants : Shri Mahmood Ali

–
–
–
–

10th November 2006

–
–
–

–
–

Per G.S.SINGHVI, C.J.

This appeal is directed against order dated 1-11-2006 passed by the learned Single Judge in Writ Petition No.22649 of 2006, whereby he declined to quash show cause notice dated 22-9-2006 issued by Collector and District Magistrate, Ranga Reddy District (respondent No.1 herein) under Section 8-B (iv) of the Press and Registration of Books Act, 1867 (for short, 'the Act').

Appellant No.1 is a company registered under the Companies Act, 1956. Appellant No.2 is the Director of appellant No.1 and also the printer and publisher of the facsimile edition of foreign newspaper in India titled "International Herald Tribune". On 6-1-2004, appellant No.2 filed a declaration under Section 4 of the Act that the appellants have a press named 'Deccan Chronicle Press' situated at Survey No.186(P), Kondapur, Serilingampally Mandal, Ranga Reddy District and that they would not print the matter, which may excite any communal hatred or excite people to indulge in violence. The same was authenticated by respondent No.1. After five days, appellant No.1 entered into an agreement with International Herald Tribune, SAS, France for printing, marketing, circulating and distributing the full edition of that newspaper in India. Thereafter, appellant No.2 is said to have filed an affidavit in the office of the Registrar of Newspapers for India (for short, 'the Registrar') that the newspaper was proposed to be published from Delhi and that the owners of International Herald Tribune will not have any tie-up/collaboration with any foreign organization in future without prior permission of Government of India in respect of the publication.

On getting information regarding the agreement entered into

between appellant No.1 and International Herald Tribune, SAS, France, the Government of India sent letter dated 4-6-2004 to appellant No.1 intimating it that publication of Indian edition of foreign newspapers is not permissible under the policy of the Government and, therefore, it should stop publication of International Herald Tribune. To that, a detailed reply was sent by the Editor of appellant No.1. Thereafter, vide his letter dated 8-6-2004, Assistant Press Registrar in the office of the Registrar called upon appellant No.1 to explain as to why office letter dated 19-4-2004 verifying the title from New Delhi should not be withdrawn. This was followed by lot of correspondence between appellant No.1 and Assistant Press Registrar. However, nothing appears to have been done for the next two years.

In the meanwhile, on being brought to his notice that appellant No.2 had obtained authentication of his declaration from respondent No.1 on the basis of title verification letter dated 19-4-4004 issued by the Registrar in the name of D.C.P. (Licensing), New Delhi and that before filing affidavit before the Registrar regarding no foreign tie-up, appellant No.1 had entered into an agreement with International Herald Tribune on 11-2-2004. Minister of Information and Broadcasting, Government of India, sent D.O.letter No.10/E2/2005-Press, dated 5-9-2006 to the Chief Minister of Andhra Pradesh for issue of a suitable direction to respondent No.1 to take appropriate action in the matter. In his letter, the Union Minister pointed out that despite communication sent by the Registrar to respondent No.1 for cancellation of the authentication of the declaration and for initiation of action under Section 14 of the Act, the latter has not taken any action. On receipt of letter dated 5-9-2006, the Chief Minister of Andhra Pradesh recorded the following note dated 12-9-2006:

"Please discuss."

After eight days, Chief Secretary, Andhra Pradesh sent D.O.letter No.182/CSP/N/2006, dated 20-9-2006 to respondent No.1 and forwarded the letter of the Union Minister for Information and Broadcasting. This was followed by issue of notice dated 22-9-2006 by respondent No.1 to appellant No.2 proposing to cancel the declaration authenticated by his office. The latter did not file reply within the time (ten days) specified in the show cause notice. After about one month, respondent No.1 issued notice dated 19-10-2006 to appellant No.1 and fixed 26-10-2006 for holding an enquiry in terms of Section 8-B of the Act. At that stage, the appellants filed the writ petition for quashing notice dated 22-9-2006 by asserting that the same amounts to violation of their fundamental right guaranteed under Article 19 of the Constitution.

The learned Single Judge dismissed the writ petition by observing that there was no legal basis or justification for exercise of this Court's power under Article 226 of the Constitution of India at the stage of show cause notice. For taking this view, the learned Single Judge relied on the judgments of the Supreme Court in **State of U.P. v. Shri Brahma Datta Sarma**[1], **Special Director v. Mohd. Ghulam Ghouse**[2], and of this Court in **Special Officer, ULC v. M.Vijayalakshmi**[3]. He then observed that respondent No.1 is required to independently exercise his power and pass appropriate order after considering the reply, which may be filed by the petitioners (appellants herein) and that it will be improper and illegal for a statutory authority acting quasi judicially to abdicate its powers and functions and act according to the dictates of higher authorities, be it Hon'ble Minister or Hon'ble Chief Minister of the State. The learned

Single Judge recorded the statement of the learned counsel that the petitioners (appellants herein) would submit explanation along with necessary material by 7-11-2006 and directed respondent No.1 to hear the petitioners, conduct enquiry on 9-11-2006 and pass appropriate order recording detailed reasons on all points that may be raised by the petitioners.

Sri Mahmood Ali vehemently argued that the order under challenge is liable to be declared as vitiated by an error of law because the learned Single Judge failed to consider the appellants' plea that the direction given by the Minister for Information and Broadcasting, Government of India has left respondent No.1 with no option but to cancel the authentication of the declaration filed by appellant No.2. Learned counsel read out D.O. letter dated 5-9-2006 sent by the concerned Minister to the Chief Minister of the State and D.O. letter dated 20-9-2006 sent by the Chief Secretary of Andhra Pradesh to respondent No.1, and submitted that the language of the show cause notice issued by respondent No.1 is clearly indicative of the fact that he will not be able to decide the matter by independently applying his mind and would act under the dictates of the superior political and executive functionaries. Sri Mahmood Ali submitted that the present case falls in the category of exceptional cases in which this Court would interfere at the stage of show cause notice and restrain the public authority from taking final decision.

We have thoughtfully considered the submissions of the learned counsel, but have not felt impressed. A careful reading of D.O. letter dated 5-9-2006 shows that on being apprised of the failure of respondent No.1 to take action on the communication sent by the Registrar in the backdrop of apparently contradictory stance adopted by the appellants, the Union Minister for Information and Broadcasting

had simply requested the Chief Minister of the State to personally look into the matter and issue suitable direction to respondent No.1 to take immediate appropriate action. This is evinced from the following extracts of the letter, which read as under:

> "In the aforesaid circumstances, Section 8B(iv) of the PRB Act, 1867 provides for cancellation of this declaration. Accordingly, Press Registrar, RNI has requested the District Magistrate, Ranga Reddy District to cancel the declaration authenticated by him on 27-5-2004, in exercise of powers given under Section 8B(iv) of the PRB Act, 1867 and initiate appropriate action under Section 14 of PRB Act, 1867 under intimation to the Press Registrar, RNI. However, since nothing was heard by the DM, Ranga Reddy District despite repeated reminders, the Chief Secretary, Andhra Pradesh was requested to issue appropriate directions to the DM, Ranga Reddy District to take appropriate and immediate action in the matter."

In our opinion, the letter sent by the Union Minister cannot, by any stretch of imagination, be construed as a direction to respondent No.1 to cancel the declaration filed by appellant No.2. The same can, at best, be treated as a reminder to the political head of the State that an officer of the State, who was required to take action in accordance with law, has failed to do so and, therefore, he should be asked to implement the relevant statutory provisions. While dismissing the writ petition filed by the appellants, the learned Single Judge referred to two judgments of the Supreme Court and one of this Court and observed:

> "In view of legal position, this Court is not inclined to interfere in the matter especially when the first respondent is yet to conduct statutory enquiry as required under Section 8B of PRB Act. There is no gainsaying that it would be improper and illegal for a statutory authority acting quasi-judicially, to abdicate its powers and functions and act according to the dictates of the higher authorities, be it Hon'ble Union Minister

or Hon'ble Chief Minister of the State (see **Purtabpur Company Limited v Cane Commissioner, Bihar**[5]). But such a ground would not be available when the competent statutory authority in compliance with requirement of law issues a show cause notice for conducting enquiry. The first respondent is a competent authority to authenticate a declaration of printer and publisher under Section 4 of PRB Act. If such authentication is to be cancelled, and for that matter an enquiry is to be conducted, there is nothing wrong for the District Magistrate and Collector to look into any material from any quarter including information furnished by the Government of India and the State Government. That is also clear from a plain reading of Section 8B of PRB Act. It is needless to point out that the first respondent, who is alone competent to take action under Section 8B and Section 14 of PRB Act, cannot act in a routine manner nor pass an order as per the wishes of the higher authorities. Such course of action would not stand the scrutiny by Court of judicial review. These observations would certainly dispel any doubt in the mind of anybody while the matter is dealt with by the District Magistrate."

We are in complete agreement with the learned Single Judge that there is no warrant for the Court's interdiction with the process initiated by respondent No.1 for taking action under Sections 8-B (iv) and 14 of the Act because the officer concerned is duty-bound to objectively consider the reply, which may be filed by the appellants and then decide the matter in accordance with law. The Court cannot quash the show cause notice by presuming that respondent No.1 will not act independently or pass order without applying mind to the material placed before him and keeping in view the relevant statutory provisions.

We are further of the view that the action initiated by respondent No.1 cannot be nullified simply because the impugned notice was preceded by D.O. letter dated 5-9-2006 of the Union Minister for

Information and Broadcasting. In a political democracy, the public representatives including the Ministers are entitled to take cognizance of the actions and omissions of executive authorities who are entrusted with different functions under various statutes and also goad them to take action in accordance with law. It cannot be entirely left to the sweet will and whims of the executive authorities to take or not to take action against a person who violates the provisions of law. The Court cannot take exception to the writing of letter or sending of communication by a public representative to the executive officers of the State to take action in accordance with law except when such letter or communication can be construed as a direct interference in the discharge of a statutory function by the executive authority or there is a tangible allegation of mala fides, bias or prejudice. In the present case, the appellants have neither pleaded nor any evidence has been placed before the Court to show that the D.O. letter written by the Union Minister is tainted by mala fides. Therefore, there is no valid ground to quash the notice issued by respondent No.1.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.2451 of 2006 filed by the appellants for interim relief is also dismissed.

-

-

G.S.SINGHVI, C.J.

10th November, 2006.

C.V.NAGARJUNA REDDY, J.

ARS

[1] AIR 1987 SC 943

[2] (2004) 3 SCC 440

[3] 1998 (6) ALT 627 (D.B.)